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THE
EMIGRANT'S ASSISTANT:
OR
REMARKS
ON THE
AGRICULTURAL INTEREST
OF
THE CANADAS:

PART I.

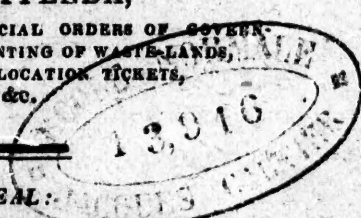
Containing an account of the most effectual means of assisting Settlers on their arrival in the country—Observations on the different Tenures by which Lands are held in both Provinces. Directions for procuring grants of waste Lands, and some account of the different methods of clearing them—collected from documents and various papers furnished for the information of the Montreal EMIGRANT SOCIETY, in the year 1820.

BY A. J. CHRISTIE, A. M.

WITH AN APPENDX,
EXHIBITING THE LATEST OFFICIAL ORDERS OF GOVERNMENT RESPECTING THE GRANTING OF WASTE LANDS, FORMS OF PETITIONS—LOCATION TICKETS, &c. &c. &c.

MONTREAL:
PRINTED BY NAHUM MOWER.

1821



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PREFACE.

THE writer of the following remarks having had the honor of acting as Secretary to the EMIGRANT SOCIETY of Montreal, on the first establishment of that Association, felt himself called upon, from his situation, to use every diligence in acquiring such information as would be useful for strangers on their first arrival in this Country. With this intention, circular letters, containing queries on rural affairs, (chiefly relating to Agriculture,) were distributed over the two Provinces, to such gentlemen, as might be expected, (from their long residence in the country and an intimate knowledge of its situation,) best able to give correct information, on these subjects. From the answers to these letters, and from other sources of information the writer had an opportunity of consulting, he soon found himself in possession of a greater mass of Statistical facts, than perhaps had ever been obtained by any other person, in the country.

ON a reference to the various publications relating to the Canadas, which late years have produced, he was struck with the defectiveness of information on some points most essential to be known. The nature of the various tenures by which landed property is held,

for instance, is a subject on which many of these authors had not even touched, and others of them who had written upon it, gave very imperfect and erroneous ideas of the matter, much more calculated to mislead and to cherish prejudices, than to remove those already existing. The importance of this subject, to every person intending to become a land-holder, will be readily admitted; and the anxious desire, to obtain some knowledge of it which had been expressed by many of our most intelligent Emigrants on their arrival in the country, will plead the writer's excuse for noticing it in the early part of his remarks. He has been further induced to devote his earliest attention to this point, from the well known fact, that many of our wealthiest and best informed Emigrants, arrive in the country imbued with strong partialities in favour of one species of Tenure, and with corresponding prejudices against others, whereas there appears to be no foundation in reality for such a distinction.

It was solely with the desire of conveying to others what he knew upon this, and other points in Canadian Agriculture, that the writer has been induced to give his remarks to the world; and if a kind public should receive his humble efforts with feelings corresponding to those which actuated him in their publication, and with that favourable indulgence which he has on many occasions experienced at their hands, he may at a future period be enabled to give a sequel to the present

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work, embracing a statistical account of some of the most important places within the two Provinces.

For the style of the language, the author offers no apology. The elegant and tasteful scholar will never reject or despise truth, though presented to him in a plain and homely dress; and had the present work been embodied in high coloured metaphors, or incumbered with fine sounding similes, it would have rendered it less comprehensible to that class of readers by whom it is most required, and for whose use it was originally intended. But he cannot omit this opportunity of publicly expressing his thanks to those gentlemen who have kindly contributed to forward his design, by sending answers to his queries. They will find a due attention paid to their obliging favours, on the appearance of the second part of the work.

MONTREAL, 1821.

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EMIGRANT'S ASSISTANT.

CHAPTER I.

CHANGES in the Agricultural system of any country are not the work of a day ; they proceed from causes which in some instances require the lapse of many years to bring them into sensible operation, and in every case they take a long period of time to manifest their whole force.

BUT the connection between cause and effect being as completely established in the progress of this, as of any other science, a brief retrospect of the most important events which have operated as the promoting causes of this great national object in Canada, may, without impro-

priety, be prefixed to any remarks upon the present state of Agriculture in that country.

At the time the Canadas became a colony of Great Britain, by the definitive treaty of 1763, the great proportion of the inhabitants, were a poor and simple race of peasantry from old France. Some of them were the descendants of the first settlers of the country, others had emigrated afterwards, along with such of the Noblesse as had been induced by the liberality of their Sovereign, (who at the time gave large grants of land,) or from some other cause, to quit their native country for the North American Colonies. These people having been born and brought up in a country, blessed as France is, with a climate and soil yielding to the husbandman all its productions with little exertions on his part, imported into the Canadas their former habits, and rigidly adhered to those of their forefathers. In this new country they found a land equally fertile as that

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which they had left, and equally ready to yield its fruits at a low expense of labour. Some exertions on their first outset were no doubt necessary. The lands, which were covered with forests, completely impervious to the sun's rays, required to be cleared, before a crop could be procured from them : but to make this exertion they had the most powerful of all stimulants, namely, self-preservation. They soon discovered that if they did not clear the land and raise crops, famine must be their inevitable lot ; and the dread of this produced all the effort requisite for such an undertaking. In a short time, experience shewed that a little more than a commencement was required, for the attainment of their object. Lands partially cleared, without being tilled, produced them luxuriant crops and soon removed the apprehension of want. This facility of attaining their object, destroyed the original motive which had produced the exertion on their part, and they soon relapsed into

their former negligent habits, as far as regarded the business of farming. The continuance of these feelings and habits, may be discovered among the lower classes of the Canadians to this day; notwithstanding the numerous opportunities they have had of profiting by the examples of others: and it is no doubt to their inexorable adherence to the old customs and habits of their predecessors that we may ascribe the wretched system of husbandry they at present carry on. Agriculture at the period alluded to was at a low ebb in France itself. For in no part of the world had it attained that eminence as a science, or that importance as a national object, which it now so justly holds. Hence it may be advanced as some excuse that the first settlers in Canada, and all who came to it for many years after its discovery, had not the opportunities of good example from the mother country, and could hardly be expected to improve in a profession, the ex-

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tent of whose value was either totally unknown, or not justly appreciated.

Few will attain eminence in any pursuit when no motive is held out for exertion, and wherein there is no desire to excel.

It has been the opinion of many, that the tenures by which the lands in Canada were at that time granted, formed a barrier to the improvement of Agriculture ; and the same idea operates against the improvement of husbandry, in the lower Province, at the present time. Lands were then granted under Seigniorial titles, (the nature of which will be explained hereafter) and the descendants of those who obtained property from the French Government under this tenure, still retain it by the same.* How far it actually militates against the advancement of Agriculture, or that it really does so, is a question not yet

* This description of Tenure prevails only in part of Lower Canada ; in almost the whole of the Upper Province, the Lands are held in what is termed free and common Soccage.

decided. The Seigniors rents and immunities are very similar to the Quints in England, and none will pretend to say those have retarded the improvement of Agriculture in that country. But to return to our subject: The local position of the Canadas, combined with political occurrences, which happened subsequent to the period we have been describing, soon produced a very important change for the better in the Agricultural interest of these Provinces. Their vicinity to the United States, at that time a colony of Great Britain, and which had become a receptacle for such men of talents and genius as were desirous to leave their native country, soon brought them under the notice of many of these characters. The fineness of their soil, and the superior salubrity of their climate, induced many to give the Canadas a preference to the United States, when both were under the British Government, and brought many to settle in them who were eminently qualified, both by talents and

habits, to promote the improvement of a new country.

IN the progress of time, another political change took place, attended with many solid and real benefits to the Canadas. I allude to the rejection of the British Government and the declaration of Independence by the United States: an occurrence which was followed by an influx of talent, industry and capital, which would not have taken place for many years after this period, had affairs continued in their former state. All those who wished to adhere to the British Constitution left the United States, and many of them came and settled in Canada. The effect of this change soon became visible in the improvement of the Agriculture of the country. These men not only brought with them the means of carrying on agricultural pursuits on an improved scale; but they had also the desire to do so, and at the same time they introduced all the improvements in the practical parts

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of husbandry which they had seen followed in the country they had left.

AND it is not to the individual exertions of these loyalists alone we are indebted for the improvements in husbandry which occurred at this period: other causes concurred in producing them. Of these it is only necessary to mention the following, being one of the most obvious and powerful in contributing to the same effect. The Canadas being now placed in the immediate neighbourhood of a powerful nation, (which, it was but too obvious, looked upon all the British possessions on this continent with a jealous eye,) found it necessary for their safety to draw the bands which united them to the mother country still closer than they were before. With this view they began to cultivate a more intimate intercourse with Great Britain, and they became better known to each other than they had previously been. This intimacy was not confined to the Government departments and to political affairs; many of those

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loyal Britons whom the revolution had driven from the United States, to take shelter under their favourite system of Government in the Canadas, had friends and relatives in Great Britain with whom they kept up a close correspondence. In their intercourse, they detailed to each other the comparative advantages attending their respective situations—they described the conditions and benefits which the different countries held forth, in the shape of encouragement to men of various characters and professions. The consequence was, that many who had been engaged in different pursuits in the old country relinquished them, and came to join their friends in Canada in the hope of meliorating their situations. The policy adopted by the British Government at this time, in the way of granting lands, likewise contributed to the advancement of the Canadas. The Ministry found, by the conquest of these Provinces, that they had got possession of an extensive country so thinly inhabited, that it

could be defended against foreign invasion with the greatest difficulty, if any hostile attempt should ever be made against it.

THE lands in their present condition were of no value to the nation, being covered with immense forests and in the wildest state of nature.

THEY therefore adopted the plan, of giving extensive tracts of those lands, to such true royalists as had adhered to their cause, and to such officers and men as had been useful in the late struggle with the United States. This plan, they believed would answer two good purposes; it would afford an opportunity of rewarding, at a cheap rate, the services of those men, and the soil would pass into hands, where it would in time be settled and cleared so as to increase its value and augment the strength of the country.

ALTHOUGH this method has not been attended with all the success that was expected, it must be obvious that it would be followed by some good; and there can be lit,

tle doubt that it was the adoption of this measure, which first directed the spirit of enterprize among commercial men towards the Canadas, and produced a corresponding degree of exertion in its agricultural interest. It augmented the rage for going to settle in Canada which hitherto had been very limited in Great Britain. This soon produced an increase of population, and attracted the notice of the merchant. Trade (which had been heretofore confined to some trifling speculations in furs,) began to extend its operation; respectable houses from Great Britain established agencies in the country; the superabundant produce of the land was given in exchange for the necessaries the country did not produce of itself. To procure these articles, the husbandman was constrained to increase his diligence, and to adopt every scheme to augment the quantity of his crops. This soon led to the adoption of the most improved system of agriculture the nature of the country would admit of, and both the far-

mer and the merchant reaped a benefit from their mutual efforts. The success attending this trafic, brought numbers of enterprising individuals from other countries to join in it, and their collective efforts have been the means of promoting the improvement of the country in a very great degree. Among those who have aided in effecting this object, there is one class of people, meriting some notice as having been most instrumental in extending the agriculture of the Canadas. These are farmers from the United States, who may with more propriety be denominated land-clearers.

MANY of these have come to Canada from various motives, and have for years carried on the following singular mode of life. They are from their infancy accustomed to the use of the axe ; possess an invincible talent for perseverance ; and being habituated to endure all the privations attendant on such an undertaking, are every way qualified for clearing the wood-lands

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and preparing them for cultivation. One of these men with his axe on his shoulder, his waggon containing his provisions, &c. and a pair of horses, goes into the wood: where he commences his operations by cutting down trees and building a hut to shelter himself from the weather. This being done, he proceeds with his labour, until he clears a piece of ground; and after taking one or two crops from it, or perhaps before he sows it, he sells it to the highest purchaser he can find, and sets out with the money to buy another uncleared spot, with which he proceeds in the same manner. How soon a farmer from the old country, gets his farm cleared and under a proper state of cultivation; he sits down quietly for the remainder of his life, to enjoy the fruits of his labour. With him, his farm constitutes his fortune, on which he lives; with the United States farmer on the contrary, his farm is an article of merchandise, which he will sell to the best advantage and with the money he gets, lay in a new stock of the

same kind of Goods as quick as possible. It is scarcely necessary to add, that the latter forms a character of great utility in a country, such as this is; and it cannot be denied, that Canadian Agriculture has reaped very important benefits from the labours of such men.*

OTHER political events, which succeeded these, had a no less powerful effect in bringing the Canadas into notice. The late war, during which the Canadians behaved so well, demonstrated their sincere attachment to the British constitution, and that they were deserving the protection of the Government. That contest brought numbers of men belonging to the army to the country; who, fascinated by its superior advantages, embraced the offer held out by Government—took their lands, and settled on them when released from their military duties. So great indeed was the attraction to this, that of some regiments who were

* These in the language of the Country are termed Squatters.

disbanded in the country, almost three fourths of their numbers, both officers and men, remained and turned their attention to agriculture.

EVERY country, after having been the seat of war, becomes an object of attention to the curious traveller, and this brought numbers to Canada who were travelling for the gratification of curiosity.

THESE characters have carried home flattering accounts of the country, and sent many works from the press, which are loud in the praise of its superior advantages. The dissemination of these reports and writings, has excited a general desire for emigration, among all classes who feel either real or imaginary grievances at home; and this has been the cause of bringing numbers to settle in the Canadas, who will in time draw forth the immense resources the country possesses. It may also be remarked, that the mania for emigration is not now, as formerly, confined to the poorer classes and such as could not gain a living

at home. Of late years, (since the war) many people possessing capital have come out to settle, and it cannot be doubted, that their talents and industry, united with the pecuniary means they possess, will soon produce the best effects. The distresses in the mother country, arising from the taxes, and the sudden transition from war to peace, have contributed to increase emigration. Many men possessed of limited incomes, when they could not procure such a price, for what they had to dispose of, as would pay the public burthens, left their native country, for another, where they would not have taxes to pay. Others, who, from the former situations they had held, were obliged to keep up a certain rank in society, when they found their annual receipts inadequate to do so, adopted the same plan, and rather chose to quit their country and their friends, than to submit to the mortification consequent on a change of life for the worse, among those who had been their equals in better times.

From these, and a number of other causes, which might be mentioned, emigration to the Canadas has of late years attained such an extent that it becomes, very deservedly, an object of national attention. England, it is said, requires some means to throw off her superfluous population. The effects of these people settling in Canada are already visible, in the more extended and improved state of her agriculture; if therefore they can be spared from the former country, and are required in the latter, it follows that every facility and help, consistent with prudence, ought to be given them, for accomplishing their views here. It ought also to be remembered that, every man who comes to the continent of America, and does not settle in a colony of Great Britain, goes to a country, where he increases the strength of England's enemies in a double ratio. If another war should happen, (and it is not an event beyond the bounds of probability,) that man will be compelled to bear arms against his mother

country, or to relinquish his pursuits in life, and perhaps sacrifice all his property, the fruits of many years anxiety and toil. Few of this class are so ardent in their patriotism as to give a preference to the last alternative; with many the *amor patriæ* is little more than a name, after its vitality has been deadened and its force blunted by a distant residence for some years.

It is therefore a preferable plan, both for the individuals themselves, and on the principle of sound policy, to retain our hardy peasantry within the verge of our own dominions, while it is in the power of Government to do so. It is said, that many of those who go to the United States, return to the Canadas; and there is no doubt that nothing but inability to accomplish the journey, prevents many more from following their example. But this cannot be done, without their undergoing many hardships, and at the loss of much time and labour. They may return with some dear-bought experience, but it is not to be sup-

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posed that this is all they acquire; the society to which they have access in the United States, and the treatment they receive, is not calculated to give them favourable opinions of mankind; nor to improve their own morals; to make them better men or more loyal subjects, than they were before. Whatever injury they may reap from such an association, it is too obvious they can receive no benefit from it. But this leads me to the next part of the subject.

CHAPTER II.

HOW ENIGRANTS CAN BE MOST EFFECTUALLY
ASSISTED.

THE way in which this can be effected, forms a subject of no minor importance. The immense numbers of those who emigrate, and the multiplicity of their wants, preclude the possibility of extending direct pecuniary aid to them all; and if such a

thing were practicable, it remains doubtful how far it would be of service to them, or if it would answer the end designed.

NEITHER the greatest exertion of individual benevolence, nor the utmost stretch of national bounty, would be found adequate to such a task. Still the necessity for something being done is so urgent, that any plan which will mitigate, if not entirely relieve their difficulties, on their first arrival, ought to be adopted. In the execution of this plan, a reference ought to be had to their comparative necessities, so as to suit the relief afforded to the exigencies of these receiving it. And this naturally leads into an enquiry of what classes of persons the emigrants are composed?

BUT it is proper to premise, that the best and most effectual relief that can be given to any description of emigrants, is, *directions and advice in what way they can most readily attain the objects they have in view.* It has been seen, from what was stated above, that there are insurmountable ob-

jections to their being assisted with money ; such a measure, would lead them to depend upon receiving assistance in this way, encourage them in idle habits, and totally disqualify them for the hardships they must inevitably undergo. There is therefore only one alternative, give them sound advice and directions for their future proceedings, and little more will be required in the generality of cases.

THE emigrants who come to Canada, are composed of a mixture of all classes ; from Great Britain and Ireland. As far as respects their necessities on their coming to this country, they may be divided into two sorts, 1st those possessing capital, 2nd those not possessed of capital ; or more properly into capitalists and non-capitalists. This is a division that will perfectly well answer every purpose in view ; but to enable those unacquainted with this country, to comprehend it, some further explanation may be necessary :—

THE greater number of farmers, who

emigrate to Canada, are totally ignorant of that description of information most requisite for them. Their topographical knowledge of the country is necessarily very limited; they are equally unacquainted with the habits and customs of those people they are to meet, and associate with. Their ignorance in this last point, frequently renders them the dupes of designing characters, and the subjects of imposition. It may also be observed, that the agriculture proper for the Canada farm is widely different from that applicable to an English or Scotch farm. They have in this country to commence with a train of operations in husbandry, almost unknown to any district in Great Britain; and these accompanied with the unavoidable difficulties attendant on them, require an effort of labour and of mental energy they never have had to make before. These people leave home buoyed up with the hopes of procuring lands, and becoming proprietors of the soil. This they can easily accom-

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plish ; as every possible facility for their obtaining lands is given. But although this forms at the time, the ultimatum of their desires, and they can readily attain it, they will still find it a poor supply for their wants, unless judiciously managed. They are not aware that the lands they procure, are covered with tremendous forests ; nor do they reflect, that they must make up their minds to endure many privations, and to undergo years of incessant labour, before their lands can be brought into cultivation. The clearing of woodlands is for very obvious reasons, a branch of agriculture little known in the mother country ; the mind of the ingenious and scientific agriculturist has been seldom directed to it ; hence little improvement has been made in the method ; and the practical farmer, has had no opportunity of seeing what is the best way of proceeding. In Canada this forms the first, and most important step, in the settler's operations ; and even, in this, he must be assisted by the advice and direc-

tion, of those more experienced, otherwise he may exhaust his means, his time and his labour, to very little purpose.

If he does not adopt the most suitable method, he will make but little progress by his individual exertions; and unless informed correctly of the value of performing this step, he will be deceived and cheated, by others whom he may employ. The price of clearing lands varies, according to the situation of the grounds, and the method of doing it; but this will be more fully explained hereafter.

SUCH are a few of the many obstacles to which a farmer is subjected, on coming to a new country; and which can only be removed by sound advice, and correct directions as to the proper method of proceeding.—

BUT, to return to the distinction we formerly adopted. The term capitalist which we have here used, must not be taken in the same signification, as it is employed in the old country. Every person possessed

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of as much money, as will supply his family with provisions for the first year; purchase a few tools, and a small quantity of seed for the portion of land he may be able to clear, may be considered as possessing sufficient capital, to commence as a farmer in Canada. If he be in possession of more cash than is sufficient for these purposes, he will the sooner attain to independence; but many instances have occurred, of persons going on lands who had not a sufficient sum for this purpose, and who have become independent, and even affluent, in the course of a few years. There is another description of men, who may with justice be considered as capitalists, on their arrival in Canada. The distresses attendant on the payment of the unavoidable public burthens, combined with other causes, have of late years pressed hard on many deserving characters in the old country. Many of those who were, from various reasons, compelled to hold a certain rank in society, and from their limited means

unable to do so, have been obliged, (though with reluctance,) to collect the shattered remains of their fortunes, and seek an asylum in Canada. They have come there, with the laudable hope, of either preserving what they had left, or with the wish of increasing it for the benefit of their offspring.* Such men, though not the most numerous, are obviously the most valuable settlers. They not only import with them the best and newest plans of every science, but also bring the means of carrying these

* This more particularly alludes to officers whom the late peace has placed upon half-pay. These men will find that slender pittance, very inadequate, to support their families in England, and maintain the rank they ought to hold. For them, Canada holds out very flattering prospects; there they can have their farms, and the conveniences and comforts attached to them. They are exempted from taxes, and can employ their half-pay wholly, or as much of it as they can spare, from the purchase of necessities, either in improving their farms, or in clearing more new lands. In short, by a moderate share of prudence, men so situated cannot only insure a competence for themselves and families during their lives, but may leave their children well provided for at their death.

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plans into operation. It is with such men as these, that the United States farmers traffic in cleared lands in the manner formerly described. One of these capitalists, on his arrival in this country, purchases a farm either wholly or partly cleared, of such an extent, and in such a situation, as will best suit his finances. This, at once, gives him a comfortable home for his family; and should he incline to do so, he may avail himself of the bounty of Government, get his location of new lands, and clear it by degrees by the sale of the superfluous produce of his farm.

From this account of the process, it might be imagined that, such as bring capital to Canada require no assistance, even in the way of advice. A moment's reflection will however be sufficient to convince any one of the reverse. Men, in the situation we have described, require advice no less, than such as are totally destitute of means. Their ignorance of the topography of the country, is frequently the cause of much

disappointment, and inconvenience to them. They may purchase a farm, in a situation where they cannot carry their future plans into operation ; their unacquaintance with the characters they have to deal with, may be the means of ruining them, by their purchasing lands of some one, who has no legal right to them himself, and perhaps they lose their farm after having paid for it. It is obvious, that they require to be made acquainted with the difference in the mode of pursuing farming as a trade, as well as the poorer sort, or they may soon expend their limited means, and reap no benefit from them.

If we turn our attention to the second description of emigrants, namely, the poor and destitute ; we shall find they stand in need of advice, and more urgently require to be directed to what is best for them, than the former. Persons of this description have the same object in view, on coming to this country, as the foregoing have. Their grand and chief desire is to get lands, lands

is their continued cry ; and they not unfrequently subject themselves to a very great degree of misery and hardship, by their precipitancy in acquiring their object. With the former class of emigrants, the possession of their capital, although small, may in some measure alleviate the distresses they have to encounter in settling on new lands ; but the latter have no such relief, they want support for the present—experience to guide them in their future operations—and encouragement to cheer them on in their laborious progress. To persons so situated, good and salutary directions are of the utmost importance. By this their labours may be much abridged, if put on the most proper method ; it will also support them under their fatigues from the idea that they possess friends who take an interest in their prosperity, and thereby prevent that despondent feeling their solitary situation renders them too apt to indulge in.

HITHERTO I have only directed my at-

tention to agriculturalists, but other classes of emigrants are equally in want of advice on their arrival in Canada. Among mechanics and labourers their ignorance of the country forms an equally insuperable barrier to their progress. Many of this description, on their reaching Quebec, have a little money saved from their former labour, and some of them are reduced to their last shilling. Both classes will soon be reduced to the same state of penury, unless directed by timely and salutary advice. These are more the objects of deception than the agriculturalists we have mentioned, for they have not so ready a way of having their hopes realised as those who come out in quest of lands. Full of extravagant notions respecting the high rate of wages, they at first reject the proposals of those who wish to employ them, and loiter away their time in the hopes of receiving an offer, on more favourable terms. The longer they delay, the chance of their finding work daily diminishes, as they will

be followed by others whose expectations are not so high. Their total ignorance of the country, prevents their going to those places, where people of their occupations are required. In this way, they in fruitless expectation waste their time, either in one place, or in wandering about, till they are reduced to absolute beggary, and soon lose that self respect and spirit of independence which is their greatest stimulus to industry, and their best safeguard from vice. From the foregoing remarks, it is obvious that all classes of emigrants, on coming to this country, stand in need of advice; it is likewise evident that this is the description of help best suited to their wants, and such as can be most easily given to them. Direct charity, when bestowed on people, who have not hitherto been accustomed to receive it, is in every instance attended with disadvantage; and the plentiful supply of the necessaries of life which this country affords, with little labour properly applied, renders this description of

assistance unnecessary, except in a very few cases. Let the emigrant, on his arrival in Canada, be directed in the pursuit of his views, by some disinterested person; let the easiest mode of attaining his object be pointed out to him; and if this be done, with a proper regard to his situation and circumstances, nothing further will be necessary. Furnished with this, and endowed with virtuous and sober habits, although he may have difficulties to struggle with at his first outset, these are never insupportable, and he cannot fail to acquire a moderate competence, if not a handsome independence, by perseverance.

MUCH has been written, and many various opinions agitated respecting the encouragement of emigrants, in a political point of view. This not being a subject adapted to the present work, a very brief remark on it shall be deemed sufficient. When emigrants arrive in Canada, their extreme ignorance of the country, bewilders their ideas and perplexes their minds; un-

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der this state, there are numbers of designing characters perpetually on the outlook to lead them astray. In the United States, they are perfectly sensible of the advantages which result from a hardy and industrious peasantry, and they are using every effort to obtain it. Their views on this subject are developed, in the plans they pursue to draw them over to their country.

It has been already remarked, that every one of these persons who leave Canada and do not return home, strengthen the enemy, and in proportion weaken the English nation. Let this simple fact be sufficient to guide the people, and the government, in their conduct towards the emigrants, and nothing further need be said to induce them to put a stop to this proceeding on the part of our neighbours. If this be attended to, we shall then retain in Canada, where they are wanted, all those emigrants who are deserving characters in any government, and if deprived of the rest it will not be attended with any loss.

IN the cursory view of this important subject which has now been detailed, it will appear, that emigrants of all descriptions, on their arrival in this country, require to be assisted; that the most effectual help that can be afforded them, is information relative to the state of the country, and its aptitude to suit their wishes. It has also been seen, that, even in a national point of view, and as a measure of sound policy, this aid ought to be extended to them. The next part of the subject for consideration is the means by which that information can be most effectually communicated. Hitherto, the emigrant, on his arrival in Canada, has had no authentic source from which he could procure information; he was left to seek it, from any person he could meet with, and frequently exposed to the operations of interested characters, who had more inclination to forward their own projects, than to assist in his. It may be said, that the publications which have of late been given to the world, were suffi-

cient for this purpose ; but these works, although valuable for the information of the curious, and perhaps well adapted to amuse the superficial reader, are but little calculated for this end. They are, in some cases, too expensive for the means of the generality of these persons ; they do not contain a sufficient mass of that local information, and those practical facts best adapted for them ; and some of them are more calculated for shewing the circumstances under which emigration may be undertaken with advantage, than for directing those people after they have come to Canada. One great defect in all of them is, the scarcity of information they give respecting the Tenures by which lands are held, and the difficulty with which they are obtained. Every man who arrives in Canada, and has an intention of procuring a farm, will of course be desirous of getting one under a tenure as secure as possible, and of that description to which the fewest conditional burdens are attached. It is no

less requisite that the poor agriculturist should have his designs as little retarded as possible, and be enabled to procure his lands with the least possible delay and expense.

CHAPTER III.

BEFORE entering on a particular account of the more minute subjects it is intended to describe. Some attention to the general state of the Canadas may be deemed proper. On this part of the subject but a very brief sketch is required; those for whom the present work is chiefly designed are but little interested in general history, and have but little concern with political subjects; minute and particular information is what they require, and that which ought deservedly to engage their attention.

FROM the time that the Canadas became

a part of the British Empire until the year 1774, the affairs of Government in this country were managed by the person holding the office of Governor alone. But in the above year, an important change was made, by the passing of the famous Quebec Bill in the British Parliament.

It provided that twenty-three persons should be appointed, under the name of a Legislative Council, for the purpose of assisting the Governor in the discharge of his duty. This Council, in conjunction with the Governor, was empowered to make such ordinances and regulations as they might think of advantage to the Province.

THEIR power of imposing taxes was confined to such as were to be appropriated for making roads, repairing public buildings and the like ; and their power of punishment, was restricted to the infliction of fines or imprisonment for a period not exceeding three months. Every ordinance they passed, was laid before the Governor, for the purpose of being submitted by him

for his majesty's approbation, within six months after it passed, and was not valid, until such approbation was obtained and signified by the Governor to the Council. In this manner the business of Government was conducted from the year 1774 until the year 1791, when another act of the British Parliament produced a second change, and established the Constitution on its present footing. Part of the Quebec Bill was repealed, and a third branch, named a *House of Assembly*, composed of Representatives chosen from the people, in a way somewhat analogous to the mode of electing members of Parliament in Great Britain, was associated in the functions of Government with the Governor and Council.

THESE three branches, in their principle of formation, resemble the three great branches, viz: the King, Lords, and Commons, in the old country, but differ from them in so far as all the acts passed by them are subject to the controul of the King, and in some instances to that of the

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Imperial Parliament in England. It was at this time the country was divided into two Provinces denominated Upper and Lower Canada.* Each Province is provided with a Governor, Council, and House of Assembly, in the way above mentioned. In addition to these three branches, there are certain persons who derive their appointment from the King, and are termed Executive Councillors. In Lower Canada these are seventeen in number, and possess powers in the affairs of Government somewhat similar to the Cabinet Council in England.

THE person at the head of affairs in Upper Canada has the title of Lieutenant Governor, and in all civil matters is perfectly un-

* LOWER Canada comprises all the eastern part of the old Province of Canada. Upper Canada is formed of the western part, and that immense territory lying on the north side of the chain of lakes and rivers which separate the British territories in North America from the United States. The two provinces are separated from each other by a line commencing at Point au Baudet, in Lake St. Francis in the River St. Lawrence, and running in a northward direction 24° west till it reaches the Ottawa or Grand River.

connected with the head of the Government (called the Governor-in-Chief) in Lower Canada ; but the latter is Commander-in-Chief of the forces in both provinces, and stands at the head of the military affairs, in British North America, under the title of Captain General.

THE Quebec Bill of 1774 fixed the Judicature of Canada. According to it, the old French inhabitants are allowed to retain the laws of France, in as far as they relate to property or civil rights ; and the same practice is followed in our Courts of Justice to the present day. The English law in criminal cases is universally adopted. This is to be understood as applicable only to Lower Canada : for the great influx of British subjects since that period, and the wise policy of the Government of the Upper Province, has introduced the law of England in all cases.

IN religious subjects, the most ample toleration prevails in the Canadas : The Episcopal religion is what may be denominated

the established Church of the country, but every sect has the same privilege of exercising their tenets, without controul.

· In Lower Canada, the Roman Catholic Religion prevails among a great proportion of the inhabitants, and by the act of 1774, the clergymen of this Church, are authorised to recover their dues and tythes, from people of their own persuasion, by course of law ; but no one of any other religious denomination is obliged to pay them.

THE act of 1791, ordained, that the person administering the Government should reserve one seventh, out of all the lands that might be granted by the Crown, subsequent to that period, for the benefit of the Protestant Clergymen of the Church of England. This has been carefully done ever since, and rectories or parsonages, are appointed by the Governor and Council, and endowed from these appropriations, the same as incumbents in the Church of England. Hitherto, little attention has been paid to these lands ; some of them have

been settled by farmers, who had no authority to do so ; others have been leased at low rents : but the Episcopal Clergy of this country are now formed into a corporation, and the lands placed under their own direction, of course more attention will be paid to settling and improving them in future.

IN Manufactures, the Canadas are at a very low ebb ; some of the inhabitants make a species of coarse cloth, for their own use ; but the extent of their operations in this way, is confined to the exigencies of each family, where they are carried on, and do not deserve the name of manufacturing.

IT is a subject of regret that some attention has not been paid to the searching for the mines with which this country abounds. Iron-ore, copper and lead have been found ; there are also, in many places, strong indications of the existence of other valuable ores, but in no instance have these been wrought under the British Govern-

ment, and seldom ever looked for. The great abundance of fire-wood, may in part account for the negligence hitherto manifested towards the coal-mines; but the probabilities of there being mines of this valuable fossile in Canada, are very strong, and a time will no doubt come, when they will be sought for and properly estimated. Enough has been said to shew the capabilities of this country for establishing manufactories.

In a work written with the intention of this, there is obviously little use for entering minutely into the state of commerce, in the Canadas.

In their Legislatural proceedings, this branch is said not to have been well attended to; but this is a complaint to which all new countries, and more especially colonies, are subjected.

THE chief articles of export from Canada are Timber, of all kinds, Pork, Flour, Pot and Pearl Ashes; of the last a great portion comes from that part of the United

States bordering on Canada, although it is an indisputable fact, that the latter country is as capable of making and exporting all these as the former, and only requires a proper share of Legislative protection to enable it to do so. Furs and Peltries form another article of Canada commerce, but the trade in these is confined to a few Companies, (almost to one,) and as they are procured from Indian nations which inhabit the territories on the north and west of Canada in exchange for British and foreign wares, brought to the country by these companies, they can hardly be considered as an article either the produce of Canada, or purchased by the productions of its soil. Besides these there are others which form a part of the exports of Canada, such as Oil, dried Fish, Ginseng and some Medicinal Drugs, but not in such quantities as to be deemed staple articles of trade.

CHAPTER IV.

THE TENURES OF LAND IN CANADA.

THE landed property of this country is held by two descriptions of titles, namely, *in fief Seignorial, and in free and common Soccage.*

THIS difference of heritable right to landed property, has arisen out of the political situation in which the country has been placed at different periods. Under the French Government the civil Constitution was established upon the Feudal System, and their mode of granting lands was in conformity to it. Subsequent to the Act of King Charles II, which confirmed the holding of lands in England by free and Common Soccage, and when the Canadas became a part of the British Empire, the extension of the benefit of that act to them, introduced the plan of granting lands according to the same tenure, namely, *in*

Free and Common Soccage. The Seigniorial titles had their origin in this way, and owe their existence at the present day, to the act of cession which yielded this country to England; for by the articles of that treaty, those holding lands under the French grants, had them all confirmed, according to the tenure on which they had been granted.

BESIDES the above reason, another operated with the French Monarchs in establishing the Seigniorial tenure. It afforded them an opportunity of rewarding their adherents and followers at a cheap rate, and they no doubt thought, it was the best tenure for facilitating the settlement of the country. Influenced by this opinion, they granted an immense tract of territory, extending from about 90 miles below Quebec, along the banks of the River St. Lawrence, to 40 miles above Montreal, a distance of more than 360 miles, in large tracts under the name of Seignories. These vary in size in different cases, but are generally from 36 to 50 square miles each, and contain in all

about 7,985,400 square acres. The grantees, who held these Seignories, were bound by their patents, to the performance of many duties, as vassals of the King. They also possessed many privileges and powers within their Seignories, similar to those enjoyed by the Seignors or Lords of the soil under the feudal system, in other nations. The greater part of those powers being now abrogated, by the Act 14th, of his late Majesty George III. which abolished their authority in criminal matters, and confined them to the civil part ; and as many of the duties are not insisted on by the King, little need be said relative to them. There are however several reservations, made by the King, in those grants which are still in force. Among others, may be mentioned the payment of the Quint, or fifth part of the purchase money, on the sale or alienation of the Seignories, unless in the direct line of succession. The Grantee was also bound to give notice to the King of all mines, ores, and minerals, which were found

on the Seignory.* To preserve all the oak trees fit for building ships to the King; and to bind his sub-tennants to do the same. Such are a few of the reservations in the oldest grants which are still in force. In those more recently granted the King reserved to himself, the right of taking back such part, of the lands so granted as he might require for the purpose of building forts, batteries, or any public works, roads, &c. and also the privilege of cutting timber for the erection of these, and firewood to supply his garrisons, without making any recompense to the Grantee.

Other particular reserves are made in certain Seignories; such as the red or pitch pine for making tar; but the above include almost all those generally in force. By their patents, certain obligations were imposed on the Seignors or Grantees, respecting the mode in which they were to con-

* There are two exceptions to this. In both the Seignories of Terrebonne the ores, minerals, and mines belong to the Seignior.

cede their land to subfuers or those applying for it.

It being the wish of Government to promote the settlement and cultivation of the country, a clause was inserted in the deeds, conveying the Seigneur's lands, by which he was obliged to concede them in farms, to such as applied for them, under the penalty of forfeiting his Seignory, and of its being reunited to the King's Domain.

THIS right was put in force in several Seignories near Champlain, which were reunited to the crown for want of cultivation, antecedent to the conquest; and were afterwards regranted to others, and in some cases to the original holders, on their fulfilling, or promising to fulfill, the conditions. By an arret dated March, 1732, when the Seigneur refused to concede lands to subfuers, on the usual conditions; the Governor or Intendant was authorised to concede the same, and the rents were to be paid to the Receiver General to the exclusion of the Seigneur. In some of the more recently

granted Seignories, the Grantee was obliged to build a house, cultivate part of his Seignory, and stock it with cattle; but they have been restricted from the sale of wood-lands, being obliged to grant them to applicants, under the penalty of nullity, restitution of the purchase money, and annexing the lands to the Royal Domains.— From these it would appear that the revenue or advantages, belonging to the Seignior are very limited, and that the possession of such a property is attended with no benefit to the holder. A little farther consideration will be sufficient to do away this impression. The Seigniors although obliged, as has been seen, to concede their lands in lesser lots or farms, free of all expense, except the costs for surveying and the prices of a proces verbal, were not left without a provision. Those to whom such concessions were made, were bound to pay them certain sums, expressed by the deed of concession, as annual *rent* and other perquisites under

the term of *lods et ventes*. From these two sources, a considerable portion of the Seigniors income was derived. The rents are in all cases very low, although varying in different Seigniories. They in no instance exceed 5s. and 2 bushels of wheat per annum for every 60 acres of land. Originally they were limited to one halfpenny for every acre in front by 40 acres deep, and one halfpenny for every superficial acre, to be paid on a certain day every year, to the Seignior at his mansion-house. These were denominated the *cens*, and were exacted, for the purpose of maintaining the recognition of the subfuer to his Seignior, and to secure to the latter, his right to the second description of payment viz. the *lods et ventes*. It also deserves to be mentioned, that in many cases the seigniors on conceding uncleared lands, do not exact this rent for the first two or three years.

THE *Lods et ventes*, are a fine payable to the Seignior by the purchaser or successor to any farm which has been once conce-

ded ; unless the farm descends to the next heir, by the lineal descent, in which case no lods et ventes are payable.

THIS fine is paid to the Seignior, on the same principle as a Quint or fifth is paid to the king, in the event of the sale of a Seignior. The amount was fixed by the French Government, at one-twelfth of the purchase money, or of the value of the farm ; but in general, when it is promptly paid, the Seigniors have been in the habit of deducting one fourth, so that they only claim six per cent instead of eight and a half which the law allows them. No inconsiderable portion of the seignior's income, is derived from this source ; and it is obviously capable of great augmentation, as the lands become cultivated, and frequent changes of the owners of farms take place.

BESIDES these two, there are other perquisites and privileges reserved to the seigniors, which constitute a part of their revenue. They have the exclusive privilege of erecting Grist-mills on their Seignior ; and

their tenants are bound to grind all the corn used for their own families, at these mills, under the penalty of being fined in double the amount of the Toll, which is fixed to the 14th Bushel. A Seigneur also has a right to cut down timber on any part of his estate, whether conceded or not, provided the timber so cut is to be employed, in constructing mills making roads or for any public purpose.

He can in many instances claim, all the fisheries or fishing stations, or he may exact a toll from such fisheries as are established in his Seigniory: the amount of which varies in different places. In addition to these, other rights are held by the Seigneur. A portion of land varying in extent in different Seigniories, is reserved under the title of the domain; which part he is not obliged to concede to applicants, in the manner above mentioned; but may sell lease, or dispose of it, in any way he deems most to his advantage. And if a seignior brings the whole of his land under a state

of cultivation, the obligation to concede it, on the usual terms, ceases ; and he may sell or lease it if he chooses. When any of his vassals or tenants wish to sell their farms ; the seignior must be informed of it, and he can take it himself at the price fixed by the seller, having a preference as the purchaser ; but this is a right seldom enforced, and appears to have been granted, only with the view of preventing the Seignior being defrauded of his *Lods et ventes*, by the seller concealing any part of the purchase money.

I have in the above description, confined my remarks, to those large tracts of land which were granted by the French monarchs, under the fief or seignioral tenure, because they are the greatest in extent, and were I believe the first in point of time. Besides these there are other tenures on the feudal system, under which small tracts of land, such as town lots were granted.

These are held under a species of Igno-

ble tenure termed *Roture*, and likewise some allodial grants denominated, *Franc Aleu Noble*, and *Franc Aleu Roturier*, a few others under a species of spiritual tenure, called *Pure Aumone*, or *Frank Almoign*; but the extreme rarity of these and their small extent render them unworthy of particular notice except in the Towns.

A SLIGHT attention to what has been detailed respecting the seignioral title, will be sufficient to convince any reader, that it possesses some trivial inconveniences; but it cannot be denied that it is also pregnant with advantages, which will, (if the original system be fairly acted upon,) counterbalance all its defects. The obligatory clause, which compells the Seignior to concede his lands to an applicant, facilitates the wishes of a farmer who is desirous of obtaining a farm: and he can effect this at a very trifling expense, for with the exception of a small sum, to defray the charge of surveying it, and about 7s. 6d for the proces verbal, he has no

more money to pay for obtaining his lands. The local position of those lands, which are held by the Seigniors ; their propinquity to the river, and the facility of reaching the markets, will be found to compensate for the difference of climate, and for all the disadvantages attached to the tenure.

ANOTHER advantage of the seignioral titles, is the facility with which the farmers can dispose of their farms, should a change of circumstances, or any other event render it necessary to do so. In the case of lands granted, in free and common soccage, as will be seen hereafter ; the locatee does not get his deed of concession at once ; nor does he procure such a title as is disposable. He obtains what is called a Location ticket, by which he is obliged to perform certain conditions, and it is only after the performance of these, that he procures a right to the soil ; such as to enable him to transfer it to another. It has happened in some cases, that the granting of these deeds or patents, has been delay-

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ed for years, and the occupier of the land having no power to sell has been deprived of an advantageous opportunity of doing so, when he might have embraced it. Among the objections to the seignioral titles one of the best founded, and which has been the most strongly reprobated, is the payment of the Lods et ventes on the sale or mutation of property. This burden is said to operate, in deterring the industrious agriculturist from expending his labour or money, in improving his farm ; because on the sale of it, he is obliged to relinquish to his Seigneur $8\frac{1}{2}$ per cent of the capital laid out ; or of the profits he would get from it.

THIS is a stubborn fact, which the most zealous advocates for that tenure cannot deny ; and it is obvious if it were not compensated by other advantages, would put a stop to the cultivation of seignioral lands, among all those who wished to improve lands for the purpose of selling them.

THE exclusive right of erecting mills by the Seigneur is another impediment, with

many to settle under their tenure. It has been urged as a hardship, that a farmer should be obliged to have his grain ground at one particular mill, and to pay a specified toll, when he might get it equally well manufactured, and at a more reasonable rate, at a mill perhaps more contiguous to his farm. The same thing existed under the feudal system in Great Britain, and the advantages which have accrued there, from a commutation of moulters and an abrogation of this plan, may be fairly advanced as a proof of its injurious consequences wherever continued. This duty however was highly judicious, and indispensably necessary, at the time it was imposed on the Seigniors. The erection of mills, and keeping them in proper repair is attended with an expense, which few of the subfurers or tenants could afford. There were not at that time, men of capital and enterprise in the country; who would embark in such an undertaking; and unless mills had been erected by the Seigniors, there

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would have been but few, and perhaps none, to supply the wants of the people. If the tenants are obliged to grind their corn at the Seignior's mills, on the other hand the seigniors are bound, to erect mills, and preserve them in proper order. Hence it is attended with a mutual benefit and as ought to be the case, in all contracts, a reciprocal advantage to the parties concerned.

It is also deserving of notice, that in some places where mills are erected by private individuals, the toll charged is always as high, and frequently higher, than that exacted at the seigniorial mills.

A PREJUDICE has arisen against seigniorial tenures, more difficult to overcome, than that resulting from either of the above objections; and it is more difficult to oppose by argument, as it is purely ideal, and has no foundation in any definite or known circumstance. I allude to the derogatory idea of vassalage, which some attach to those sub-tenants, who hold land from Seigniors.

During the operations of the feudal system, the holder of lands was compelled to pay homage and fealty to the sovereign, as the Lord of the soil. He was also bound to the performance of other duties, such as furnishing his quota of foot-soldiers or horsemen, when the king went to war. These conditions however existed only between the King and the Seignior; they had no reference to the subtenant or the farmer, to whom the latter had conceded his lands. In the deed of concession given by the Seignior, as far as I have heard, no vassalage or fealty was exacted. In the early time, when the Seigniors had the right of exercising high and low justice, within their territories, something of this kind might have existed, but that ceased at the time the Seigniors relinquished these rights; and at the present moment nothing is claimed of the farmer, unless what is expressly stipulated in the deed of concession. Under this view of the subject, it is obvious that this objection is founded on a

vague and incorrect opinion ; and forms no valid argument against the Seignioral tenure. On the contrary, it appears from custom, that those holding lands under this tenure are more independant and more exempt from vassalage duties than those who hold directly from the crown.

THE King, as sovereign Lord of all the soil, requires certain conditions from such as hold it under him, as vassals, which conditions may be either expressed or implied in the patents conveying the lands. In the case of the seignioral title, those who are the more immediate vassals of the crown, step forward and become bound for the performance of these duties ; whereas the subtenant, who holds of them, is exempted from every description of fealty, unless expressly stipulated at the time he takes the lands.

IN this argument, I am supported by the opinion of some of our most eminent lawyers. Blackstone Vol. 2. Cap. 5 says “ all

tenures being thus derived of the king, those that held *immediately under him*, in right of his crown and dignity were called his tenants *in Capite* ; which was the most honourable species of tenure, but at the same time *subjected the tenants to greater and more burdensome services, than inferior tenures did.*" In objecting to the seignioral titles it has been asserted that they are prejudicial to agriculture ; and many of the advocates of this opinion, will maintain it without advancing one solid reason in its support. The best reply to this, is the notorious fact, that the farms of good agriculturists, even when held by the seignioral tenure, are under as good a state of cultivation, the occupiers of them as wealthy, if not more so, as those who hold farms in free and common soccage. From which it is obvious, that if the soil, and the exertions of the farmer be equal, no difficulty will arise to the progress of improvement, or the prosperity of the farmer under either tenure. In reply to all this, it may be

asked, what is the reason the same progress has not been made in settling the lands under the seignioral tenure, as those in free and common soccage? The cause of this is obvious. The solid objections arising from the existance of the lods et ventes operated in the first place against this tenure; for no settlers from Great Britain would take lands subject to such a burthen, when they could procure them without it. This, combined with other objections to this tenure (many of which as has been already shewn have no foundation in reality) at first, excited a strong prejudice against it. This unfavorable opinion has been kept up, by the avaricious conduct of the Seigniors, in some cases; and in others, by their remissness in not exerting themselves to get their lands settled. Several of them have left the management of their estates, to selfish or negligent agents, who were more intent on aggrandising themselves, than in forwarding the wishes of settlers, or promoting the true

interest of their employers. Such men frequently put off those applying for lands, with some trivial excuse; and it has been said that they sometimes exacted a *douceur* before a deed of concession could be obtained from them. In some cases, the Seigniors are said to have co-operated with them in this unfair traffic, and to have shared their spoil; in others it has been alleged that the Seigniors preferred present, though inconsiderable, emolument, to their future and more solid interest, and conceded their whole seigniories to their agents, in their confidence, and that in such cases, applicants for lands could obtain them in no way, but by a purchase from such agent. On the amount of this purchase, the Seignior became entitled to his *lods et ventes*, and by these means, a difficulty and an expense, attended the obtaining a seignioral grant on such Seigniories, which few men were willing to incur. These instances of unfair conduct on the part of the Seigniors, it is to be hoped are exceedingly

rare ; and although they have contributed to keep up the prejudices against this description of tenure, it can never be said they arise from an inherent defect in the tenure itself ; for the more intelligent seigniors, who see and appreciate the advantages of having their estates settled, and well cultivated ; readily concede their farms to such as apply for them, on the fair conditions by which they are bound to do so. The complaints against the seigniorial tenure are not of a recent date. In the year 1790, a committee of the whole council was held at Quebec, by order of Lord Dorchester then Governor in Chief, for the purpose of enquiring into, and deliberating upon the propriety of converting, the tenures held in fief and seigniorie, into that of free and common soccage. This order was issued, in consequence of a petition from a Mr. Lanaudiere, to enable him to make a conversion of his tenure ; At the same time the council, in the event of their considering that legislative interference

might be necessary for this purpose, were ordered to prepare a draft of a bill, such as they thought proper, for the object intended.

In the course of their investigation, many facts and circumstances relative to the seignioral tenure were elicited; but in the report they presented, it was stated, "that in exploring the causes of the tardy progression of the population of the country, under the Government of France, there seems to be no ground for ascribing it to the non-compliance of the Seigniors, with the conditions for cultivation expressed in their patents or grants." The committee on this occasion, after expressing their doubt how far a conversion of these tenures would be prudent, in a political point of view, express their decided opinion that it could not be effected without legislative interference, and proceed accordingly to draft a bill for this purpose. By this bill, it was to be enacted, that every person desirous of effecting a change of his tenure,

from the seignioral to that of free and common soccage ; should make a surrender of his lands into the hands of his majesty's representative in the province : and after his having done so, that the Governor or the person administering the Government, should be bound within a certain time, after such a surrender is made, to cause a fresh grant to be made out to the said person, of the same lands, to be held in free and common soccage. This is the only way, by which such a conversion of the tenures could be effected. The accomplishment of such an object, is of too great importance, to be done without the interference of legislative authority ; and as it involves the interests of two contracting parties, it can never be accomplished but by their mutual consent. By this plan, it would be left optional with the parties to embrace the change or not, as they chose, and unless such consent was given on their part, it would be deemed an undue interference of legal authority to compel it. In

all cases where lands have been granted by the French crown, under the seignioral title, the British Government have sedulously adhered to it; and that, not only in cases, where the representatives of the original Grantees are alive, but also in those instances, where the lands from forfeiture or other causes have reverted to the crown.

It has been alledged that a conversion of the seignioral tenure, into that of free and common soccage has been opposed, on the principle that the crown would not relinquish the immunities it derives from tenures of the former description; This, I am inclined to think is an assumed argument, and totally devoid of foundation. It has already been shewn, that the far greater portion of the lands granted by the French King, were given under the fief and seignioral tenure. From these the crown reaps no benefit, except the Quint on the sale of a Seignior, or the rentes and lods et ventes, which it receives from such vassals as hold lands by the inferior species of

tenure, such as rotture &c. from the crown. I am not prepared to state the amount of revenue which it derives from these sources at present, as a portion of it depends upon casualties it can never be estimated with precision. The part of the amount which is fixed also depends upon the quick transition of property, and unless in towns cannot be very large. From the Receiver General's Books between the years 1775, and 1785, the whole amount did not exceed ten thousand pounds sterling, including the arrears due previous to that period; a sum far too insignificant to operate against any measure which would be beneficial to the country, for it cannot for a moment be imagined, that Government would hold the possession of this trifling sum in competition with the advantages, which would arise from having the country settled and its wealth and political importance encreased.

Free and Common Soccage

THIS, as already observed, forms the se-

cond species of tenure, by which lands are held in the Canadas, and the next subject for the consideration of those who are desirous of becoming landholders in the Country. There has been a difference of opinion among writers respecting the origin of the term soccage, while some have maintained that it is derived from an old saxon word signifying liberty, because the adoption of this tenure conferred additional liberty on the tenants or vassals; others with equal zeal have concluded that it owes its origin, to an obsolete word signifying a plough, because one of the chief conditions of this tenure obliged the tenant to plough the manor of his lord, or to give so many days of his plough and cattle for that purpose. It is unnecessary to waste time, in enquiring which of these derivations is the most correct. The signification of the term, as it is most generally understood at the present time, and agreeable to the acceptance it has obtained from some of our most eminent lawyers, is detailed in the

subsequent passages ; and this is all that is required to be known in the present work. When any word or phrase conveys a clear and accurate idea, of which every man of common information, can form a correct conception ; it is surely unnecessary in a work designed for public use, to hunt after obscure and difficult authors, in search of the radical term from which it is derived.

THE tenure of free and common soccage is distinguished from that in fief and seigniorial, and from all others, by its having the services or returns, which the landlord exacts from his tenant or vassal, clearly and accurately defined ; as to nature extent and time of performance.

UNDER the feudal tenures, the vassal was bound to fulfill certain services and duties to his lord, as a consideration for the lands he held, and the latter might call upon him for the performance of those services, wherever he chose, and as often as he pleased. But by the tenure in free and common soccage, the conditions on

which the vassal holds the lands, are expressly stipulated in the deed of concession ; and by their being thus defined, nothing beyond the performance of them as specified in that agreement, can be exacted.

It will be obvious to our readers, that the adoption of a tenure such as this, (and differing as above mentioned from the former feudal rights which gave the lord of the soil an unlimited sway over his vassal,) conferred a very great and important augmentation of freedom on the latter. Thence it is probable that the epithet *free* was added to this tenure, while at the same time its coming generally into use, might have given it the other title of *common* and from the combination of these arose the whole term *Free and common Soccage*.

SOME of our writers on law, are of opinion that this tenure is only applicable to those instances, wherein a fixed and definite sum of money is paid for lands, and contend that, in all cases where personal

services of any description, (known of old by the name of Escuage or Sergentry) is demanded, it becomes a military tenure, under the feudal plan and different from that under the free and common soccage. But this opinion is neither accordant, with the original acceptation of the term, nor agreeable to the sense in which it has been received, by many other writers of equal celebrity with the supporters of the first opinion, who contend that it is not the nature or extent of the conditions which forms the specific distinction between this tenure and others ; but that the difference consists solely, in these conditions being accurately defined, and stipulated for, between the lord and his vassal see Blackstone Vol. II. Book 2d Cap 6. Writers on civil law, when treating on this subject, have described different kinds of soccage tenure, but in as far as this is referable to lands in Canada, it is only necessary to notice one description of this tenure ; there being no lands but what are granted under it, ex-

cept such as are held by the seignioral or other tenures formerly mentioned.

FREE and common Soccage was established, (as has been already noticed,) by an act of King Charles II. which act, not only describes it, but also provides for its continuation.

AFTER discharging the other kinds of tenure, by which lands had been formerly granted, and securing certain rents and fees which arose to the crown, from particular customs fixed by these tenures; reserving the right to such monies as may be due from the alienation of lands or tenements, previously made, and also providing for such suits at law as may hereafter occur respecting former tenures; it proceeds, "and be it enacted by the authority aforesaid that all tenures hereafter to be created by the King's majesty, his heirs or successors, upon any gifts or grants of any manors lands tenements, or hereditaments of any estate of inheritance at the common law shall be in *free*

"and common soccage, and shall be adjudged to be, in free and common soccage only, and not by Knights service" &c. &c. 12 Car. II Cap, 24 Sect. 4.

THE Tenure of Free and common Soccage being thus established, and provision made for its continuance, by the common law of England; it would obviously be extended to this country, on its annexation to the British Empire; as there was no provision to the contrary in the treaty which ceded it, nor any provincial statute passed since that time that could operate against it.

THAT this has been the case, is evinced from the practice pursued since the above period; for almost all the lands which have been conceded, under the authority of the British Government in Canada, have been granted in free and common soccage, in conformity to the provisions of the above act.*

The only three exceptions to this are the Seigniories of Malbay, Mount Murray, in the District of Quebec and Megoucha Point in the District of Gaspé.

THE advantages attached to this species of tenure are so well known, and so justly appreciated, that a minute enumeration of them would be superfluous ; but in regard to the particular conditions which are exacted from the landholders in Canada, or what may be called the tenure by which lands are at present granted in this country, some further illustration becomes necessary.

THESE conditions are fixed, by the authority of the Governor and council, and are as follows. Every person obtaining lands is obliged to become *bona fide*, a settler upon them. He must build a house and keep in repair the road in front of his lot or farm ; and lastly he must clear five acres for every hundred he has got before he gets his title to them. It deserves to be noticed that these conditions are strictly enforced, in the Upper Province only, and their exaction has only been made of late years. In Lower Canada, large tracts of land have been ceded to individuals

without attaching to them the duty of actual settlement ; and here it is still allowed to be done by proxy, neither is there any clause obliging the settler to make the road or to keep it in repair, that being provided for by the Provincial road act. The extent to be cleared is also less in the Lower Province than it is in the Upper ; four acres on the whole grant, whatever be its extent being all that is required in the former. This constitutes what is called the settlement duty, for the performance of which the settler is allowed the space of three years, and at the expiry of that time he obtains a deed or patent for his lands, and becomes, to all intents and purposes, the lord of the soil. Besides these, he has a specific sum to pay in money, as the price of his lands ; and certain fees which are exacted for drawing out the papers, furnishing the proper certificates, and other necessary documents. The whole amount of this sum varies in different parts of the two provinces ; but it no where exceeds

3s. and 6d. per acre, and is made payable in different small instalments, to suit the convenience of the farmer, and this only in Upper Canada, in Lower Canada he pays only 23s. for fees of council, &c. The existence of a strong prejudice against the seignioral or fief tenure, has already been noticed; and this is accompanied with a corresponding partiality, in favour of the tenure in free and common socage. It has also been seen, that many of the prejudices urged against the former, are totally unfounded, and owe their existence, rather to the abuses which have crept in among the holders of lands under that tenure, than to inherent defects in itself.

THERE have also been outcries, and complaints, against the tenure in socage; and an enquiry into some of these may not be useless, as it will shew that they are equally destitute of foundation with those urged against the former, and ought to form no just objections to it.

THE first thing the opponents of this tenure, have advanced against it, is founded on that clause in the conditions, which compells the holder of lands to settle on them. In consequence of this obligation, say they, the possessor of an old cultivated farm will never take a new one, for the purpose of improving it, because he would be obliged to leave the former and reside on the latter, to undergo privations he could never submit to. The falsity of this species of reasoning is so obvious, that it may be thought unnecessary to waste time in refuting it; such an objection can never apply, but in cases where the farmer is the possessor of an old farm, and even in these instances it ought to be no valid obstacle to the tenure. For if he were not bound to actual settlement, it would ultimately be found to his advantage to reside on his lands, and for the present will subject him to no additional expense. He can build, in most cases, a log house to live in for the sum of ten or

twenty pounds; and while his operations of clearing and fencing are going on, he will find it proper for himself to be on the spot, on the score of prudence. His cultivated farm will furnish a home for his family, supply stock for his own use, and raise provisions for himself and labourers while employed in clearing the other. At the same time, if a prudent arrangement be followed, it will not require his undivided attention, so as to prevent his devoting a large portion of his time to superintend the operations on his new lands. It is therefore obvious from a consideration of these facts; that even if this clause did not exist, every intelligent farmer who wished to cultivate his lands on the most economical plan, would reside upon them, and this part of the conditions requires nothing farther. The enforcing actual settlement, upon those who have no place of residence, but their own lands, can be no hardship, to them compliance becomes a matter of expediency, and such as they

would never object to it. It is therefore evident that this part of the conditions, never can militate against the interest of the individuals themselves ; and ought not to be objected to as a fault in the tenure, nor in those who have imposed it, or whose duty it is to see it duly performed and it ought to be kept in mind that the settler may act by proxy in Lower Canada. See appendix. If we consider its operation in a national point of view, instead of being objectionable it will be found one of the wisest measures our Legislature could have devised. The plan of disposing of the uncultivated lands in the United States, has been often complained of, as it is found to subject the poorer farmer to serious delay, and heavy expense before he can get a small lot. This arises from their waste lands being bought up in immense tracts, by individuals, who wish to sell them out again ; and who not unfrequently do so at such an exorbitant rate, as subjects the small farmer to heavy burdens, and cramps his best exertions for

many years. It was with the intention of avoiding a similar state of things in Canada, that the Legislature devised the conditions by which lands are at present conceded. The imposing the duty of actual settlement, and the obliging the holder to clear five acres of every hundred, was perhaps the best plan that could have been hit upon for this purpose. It effectually prevents the waste lands from becoming the prey of land-jobbers, and such as might procure large tracts of it as an article of speculation, and thereby protects the industrious cultivator, of the soil from many unreasonable exactions he would otherwise be exposed to.

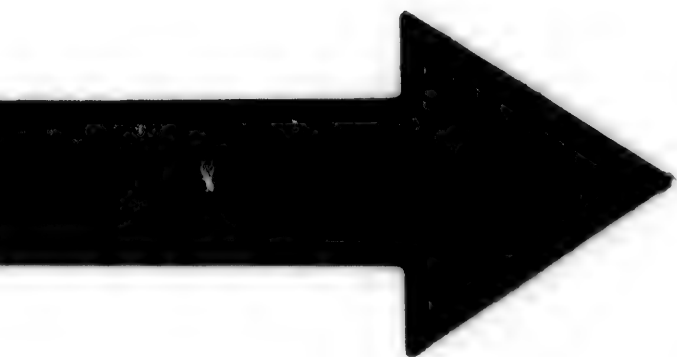
THE soccage tenure in Canada, as at present exercised, is considered objectionable from the expense attending it. The charges in this respect vary in the two provinces and in different parts of the same province; but in no case do they exceed three shillings and sixpence per acre, including the necessary fees, the price paid for the lands,

and all contingencies. This objection, if it can be considered one, is only applicable to the Upper Province a table of the fees charged in which, will be seen in the Appendix. In Lower Canada there is nothing to pay until the final land patent be made out for the settler, excepting some trifling fees to the various offices and these are not regulated according to the extent of the grant: nor do they exceed 24s. for 100 or 1000 acres. A circumstance which of itself gives the Lower Province a decided advantage over the Upper, for a settler who may be in straitened circumstances. In a country such as Canada, where the great abundance of waste lands, renders it of little value as an article of purchase, this sum, of 3s. 6d. small as it appears, will frequently be considered too high, unless the lands possess some great advantages as respects soil or situation. But although the present price of lands may give a colour of truth to this opinion, it will obviously be of short duration, for as the va-

lue of lands comes to be known and appreciated, and as cultivation extends, by the country becoming more settled, this will in a few years be reckoned a very small price for lands of a middling quality. Even at the present time, if all the circumstances of the case be considered, it will not be deemed an unreasonable demand for landed property. It has already been remarked, that, this amount is payable by instalments, and the time given for paying it is such, as to afford every convenience to the farmer for doing so. In almost every situation, with a moderate degree of industry, and attention, he can realize as much from the produce of his lands, besides his own expenses and the cost of clearing it, as will pay his instalments when they become due ; and when it is remembered, that for this small amount, he can not only procure a comfortable independance during his own life, but also make a provision for his family at his death, he certainly has but little cause of complaint on this head. The

Justice and liberality of government, have been amply displayed in making this demand for the lands, they concede. When an applicant is so very poor, as to be unable to pay for his lands, fifty acres are given to him free of all charges : and in those instances where individuals have claims on Government for services rendered, they obtain lands *Gratis*. This applies to the cases of such men as have served, in the Army or Navy, to all of whom land is given in quantities proportionate to the rank they held, free of all costs. There appears to be something unreasonable, (not to call it unjust,) in complaints from this cause, and it would seem as if such characters could never be satisfied with the utmost extent of national liberality. Government, in order to carry on a regular system in the land-department, is under the necessity of supporting an extensive establishment, for the purpose of surveying and appropriating lots of land to the various applicants. This cannot be done but at a heavy cost, and it





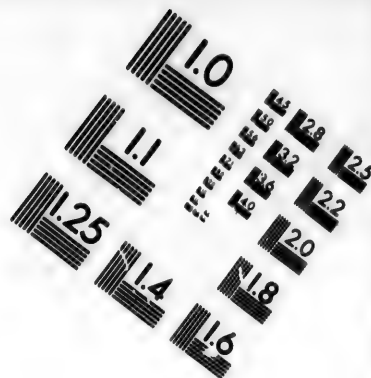
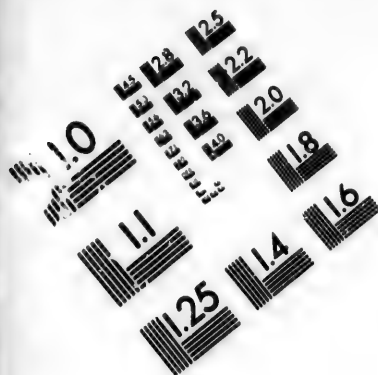
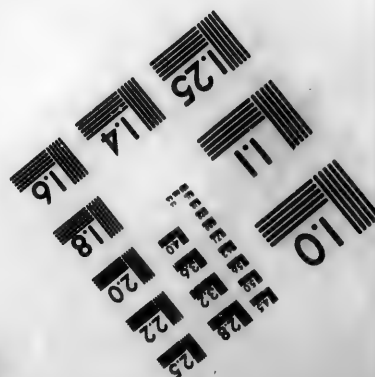
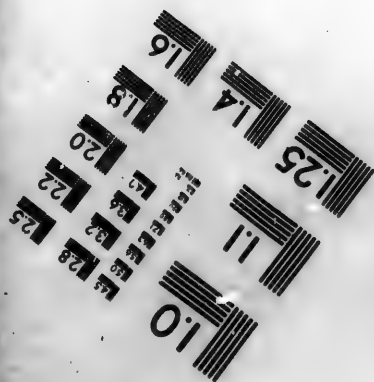
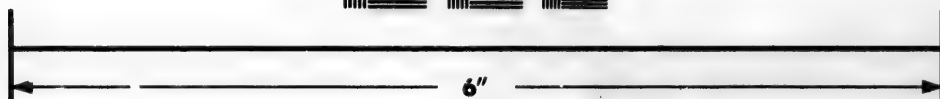
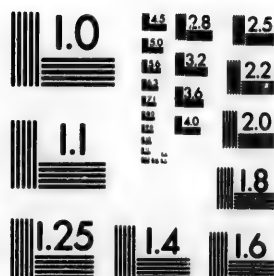


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is surely unfair to expect, that Government is to bear the whole charge without any remuneration, or some means of defraying the expense attendant on so extensive an arrangement. From this, a good argument may also be drawn, in favor of the amount of these charges at the present day. Although they may appear to be in many cases, more than the farmer can easily afford, the whole sum resulting from them, is not adequate to remunerate the labour of men of talents, such as are capable of discharging the important trust, that must be placed in them in the above situations. The last objection to the Soccage Tenure is founded on an abuse of, and a mistaken idea of its conditions. It is said to be difficult to obtain a regular title, so as to enable the farmer to sell or dispose of his farm should he wish to do so. It has been already mentioned, that, three years are allowed to the settler, to perform the duties which entitle him to a deed of his lands; but it must not be inferred from this, that

he must wait for that space of time before he can procure such a document: on the contrary, as soon as he can prove that he has performed the settlement duty, even at the expiry of the first year he will obtain his title deeds on applying for them.

In some of the old townships in Upper Canada, the landholders have not yet obtained titles to their lands, although they are long since under cultivation; but this has arisen from some informality or error in the form of conceding them, and not from a defect in the soccage tenure; A similar delay is not likely to occur in future; as Government have of late paid more attention to the granting of lands; they are pledged to furnish deeds on it being proved that the settlers have performed the settlement duty; and there is no doubt they will fulfil their promise.

In the foregoing remarks, a few of the most important properties, of the two principal sorts of tenure in this country have been detailed. The objections which are

commonly urged against them have also been noticed. Many of these, which have been ascribed to imperfections in the tenures, arise from the non-fulfillment of the conditions they impose; and others have been created by interested men to serve their own ends. To proceed further with the view of demonstrating the superiority of the one, or exhibiting the defects of the other, would lead into a detail far exceeding the intended limits.

It is sufficient for the emigrant, who comes to Canada in quest of lands to be assured that the industrious and prudent agriculturist, seldom fails to reap a due reward for his labours, whether he holds his farm under the Seignioral right or in free and common soccage.

CHAPTER V.

DIVISIONS OF LAND.

Previous to entering on the particular directions, as to the method of applying for, and obtaining lands, some account of the plan on which they are laid out, may be deemed expedient.

THE Seigniories, as formerly noticed, are formed of large tracts of various extent, with their front bordering on the river, and extending back to a greater or less distance.

THESE are divided into lots (differing in size in different Seigniories,) by lines drawn at right angles with the river, or nearly so, and extending back to the depth of the whole. Other lines, running at right angles with these, cut them transversely, and divide the whole into lots of an oblong shape; each of which forms what is called

a *concession* or farm. The desire to obtain lots bordering on the river, induced the seigniors to run the lines which go at right angles with the river, as close to each other as possible, so that in many cases they are only the width of two acres apart.*

THE transverse lines which separate the concessions are at greater or less distances apart, 20, 30, or 40 acres.

By this arrangement the number of acres front, multiplied by the number in depth, or what is termed the length of the concession, gives the amount of square acres each lot or farm contains; and which is the smallest quantity generally conceded to an individual, but does not confine him in extent, as he may take one or more lots as he feels inclined, or thinks his means will enable him to cultivate. The lots are numbered 1, 2, 3 &c. along the bank of the river, the whole width of the Seignio-

(Note.) Wherever the word *acre* referring to the Seignioral lands occurs the French *arpent* is meant which is a measure of length about 180 feet as well as of surface.

ry, and the concessions or ranges 1, 2, 3, 4 &c. through its depth. In specifying any farm, it is described by the number of its lot, and the number of its range or concession as lot 4 in the 2d or 3d concession &c. :

THE lands which have been granted, and are still to be conceded, not in the seignioral Estates are divided into *Townships*. A Township is a square tract of land about ten miles broad, and as many in width, and subdivided by diagonal lines, into *lots* and *concessions*, similar to those above described in the Seigniories.

EACH lot contains 200 square acres, if complete and unbroken in front by the intervention of any lake or river, and forms the extent of land given to one family at a time. They are described by the number of the lot, and the number of the range, the same as in the Seigniories. The lands which are reserved for the crown; or the clergy, are such a number of lots as will make up the quantity provided for by law;

but are not fixed to any particular part of the Township nor have they any preference ; on the contrary, when these have been laid out in such a way, as to interfere with the pursuits of the settler, or retard his operations ; there have been instances in which Government have changed them for others not lying in the way of the settlement.

For the more ready administration of justice, and various other purposes, each of the provinces have been divided into large districts, and the Government of Upper Canada have lately taken advantage of this division, to facilitate the granting of lands. They have established, in each of these districts, a land board, subordinate to the head of the department at the seat of Government in York, to which applicants for lands are to present their claims, in the manner hereafter described.

It is to be wished that some arrangement of this sort was adopted in Lower

Canada, where the farmer desirous of procuring lands, is subject to a great waste of time and labour, being obliged to make one, and frequently more, long journies to Quebec, before he can get a grant of lands.

CHAPTER VI.

*The form of obtaining Lands in Canada,
with the mode of applying for them.*

UNDER the Seignioral tenure, this is a simple and cheap process. The farmer has only to go to the Seignior, and after fixing upon a lot, which has not been previously conceded, the Seignior gets it surveyed and a process verbal made out; for which the settler has to pay a small sum, namely, about 15s. for surveying, and 7s. 6d. for the process verbal. This is all that is required; the farmer can then proceed with his operations, and has from this sim-

ple arrangement all the title and right to the ground he ever can obtain under this species of tenure.

In the tenure by soccage, some farther formality is required, and the plan to be pursued in the Lower Province differs in some respects from that in the Upper.

In the former, when a farmer wishes to obtain lands, after fixing upon the spot that suits him, he must go to the Surveyor General's office, where he obtains a certificate of the lot in question not having been previously conceded. From thence he proceeds to the office of the Provincial Secretary, for the purpose of ascertaining if it be vacant, from the records kept in that department. Having received from these two certificates, of the lot he has chosen being unconceded; he has next to apply to the Governor and Council by a memorial stating his wishes and specifying the lot; and accompanying it with the certificates of its being vacant. On this memorial the Governor and Council decide, either for or

against the applicant. If the former, it is returned to him and on presenting it at the Surveyor Generals office, a license of settlement, denominated a location ticket, is given, and his name enrolled as the possessor of the lot in question : on which authority he goes and commences the performance of the settlement duty as above described, which being accomplished, he obtains his title deed under the seal of the Province, and the signature of the Governor, for the time being, agreeably to the forms prescribed for that purpose.

IN Upper Canada, the mode pursued for this purpose is somewhat different.

THE settler, wishing to obtain lands, if he goes to York the Capital of the country, he must first appear before a commissioner, appointed for the purpose, and take the usual oaths of allegiance, abjuration, and supremacy, (if a Protestant,) but if a Roman Catholic, he is only required to take the oath of allegiance, agreeably to the act of the 14th of his late Majesty. The

Commissioner then gives him a certificate of his having been sworn, for which a charge of 2s. and 6d. Halifax Currency is made. The applicant next makes out a petition or memorial (see appendix) to the Governor and Council, and lodges it accompanied with the above certificate, and such other testimonials of character as he may have, with the clerk of the Executive Council, who charges a fee of 5s. and 6d. Halifax Currency, and directs him to apply on the the next day the council sits,* when he is examined by his Excellency in Council and the merits of his petition decided on. If the answer be favourable, he receives from the clerk of the council, a warrant addressed to the Surveyor General, containing the order on his petition, and on presenting it at the office of the latter, his name is entered on the plan of the Township, for the lot he has chosen ; and he receives a licence or location ticket (*vide appendix*) authorising him to proceed

* The Council meets every second Wednesday.

and settle on his lot, for the purpose of performing the settlement duty. This ticket contains, a description of the land located, and the conditions of location formerly mentioned, for which the Surveyor General receives a fee of 2s. and 6d. Halifax Currency. The foregoing plan is pursued in case of the applicant for land being at the seat of Government; but as it frequently happens that he is in a remote part of the Province, drawn there perhaps from a desire of joining his relations, or from some other reason, a provision for granting him lands, without exposing him to the expense of a long journey to the seat of Government was thought necessary. In consideration of this difficulty, the division of the country into districts was taken advantage of, to facilitate the granting of lands, and a Land Board established in each district by an order of the Executive Council to that effect dated 13th March, 1819, as follows :

Executive Council Chamber, }
13th March, 1819. }

Present,

HIS EXCELLENCY SIR PEREGRINE MAITLAND
K. C. B. Lieut. Governor in Council.

" WHEREAS, great inconvenience accrues to Emigrants desirous to become settlers in this province, from the necessity of presenting themselves at York, before they can obtain a location on the waste lands of the crown. For remedy thereof, His Excellency the Lieut. Governor, by and with the advice and consent of the Executive Council, is pleased to appoint, in each of the districts, certain persons to form a Board, with power to locate any emigrant, or other person, desirous to become a settler in the respective district, on a lot of 100 acres within the same, under such limitations, restrictions, and rules, as from time to time may be made for the government of the said Boards by any order in Council."

RULES & REGULATIONS.

THE Boards will assemble, one day at least, in each week, of which public notice shall be given in the district.

THEY shall examine every applicant, and minute his place of birth, age, and time of coming into the province, shall receive and minute a declaration, that he has not before received any land from the Crown, within it.

WHEREUPON being satisfied as to his character, and the propriety of admitting him to become a settler, the Board shall administer to him the oath of allegiance, and deliver to him a certificate to that effect, signed, by two members at least, and having entered his name in the Township plan, shall at the foot of the said certificate, assign to such settler the said lot, and deliver the certificate with such assignment, in order that upon the production thereof, with proof of having performed the settlement duty, he may receive a patent grant of the land. For which purpose the Surveyor General shall

furnish the Boards, with plans of each Township, shewing the lots therein unlocated.—After the deposit of such plans with the Board, no location to be made therein by the Surveyor General, until he shall have received, on special reference, a certificate from the Board, that no settler is located thereon. In case of any apparent occupation or improvement, made on any lot, vacant on the plan, no location to be made thereon, without further order from the Surveyor General. The Land Boards may appoint a clerk to preserve a minute of their proceedings, and countersign their certificates, upon delivery of which he may receive from the applicant, the sum of Seven shillings and sixpence.

THE advantages attending this arrangement are too obvious, to require enumeration. It, in the first place, lessens the heavy and important duties of the Surveyor General, thereby diminishing the chances of mistakes and irregularities in his department. It affords an opportunity to the

settler, to obtain his lands in a distant part of the province, without the delays, expenses, and many other inconveniences, attendant on a long journey. It places the settler more immediately under the eye of those from whom he has received his lands, and thereby imposes on him an additional inducement to exert himself in performing the settlement duties. Add to all this, that, the gentlemen composing the Land Boards in the different districts, are men resident in those districts, who have an interest in seeing them improved, and will not fail to encourage the new settler with their advice and countenance, in the laborious exertions unavoidably attendant on his first attempt.

In this way, the appointment of Land Boards, has been attended with the most salutary consequences in Upper Canada; and it is sincerely to be wished that a similar plan were adopted in the Lower Province. The form of Location Ticket or certificate of settlement, which is given by

the district Land Boards, differs in some trivial respects, from that which is issued at the seat of Government ; but it is equally valid in a legal point of view, and similar in the conditions it imposes on the settler, (vide appendix.) The Regulations for these subordinate Land Boards, are more minutely detailed in a letter from the Provincial Secretary to D. M'Gregor Rogers, Esq. Chairman of the Land Board of the New-Castle district, Upper Canada, dated 26th April, 1819, vide appendix.

BESIDES the foregoing methods to be pursued for obtaining grants of lands, there are others which deserve to be noticed here. It has been already stated that retired officers or men from the army or navy, whose services give them a claim on Government, can readily obtain grants of Land in the Canadas, on applying for them. Such characters have also some preferences over others, and the government has of late been sedulously careful that they should reap the full advantages, these pre-

ferences give them. The quantity of lands allowed to officers under these circumstances is in proportion to their rank. They are exempted from paying the fees which are exacted from settlers not so situated, and no conditions beyond those connected with the fulfilment of the settlement duty are imposed upon them. In addition to these the government has set apart particular portions of land in different parts of the two Provinces under the denomination of "Military settlements" to be given to such characters. In these military settlements, a much greater degree of regularity and order, in settling prevails, than among those who sit down promiscuously in other situations. Each of them is under the immediate direction of an officer termed a Superintendant the discharge of whose duty, is of material importance in preserving that order and regularity. On any person who has procured a lot in one of these, not fulfilling the settlement duty, or in case of his abandoning it afterwards :

the superintendant, being on the spot immediately discovers this, and on making his report to Government of the lot in question being vacated it is given to another applicant, and thereby prevented from being left uncultivated when all around it are so. In many cases after the petitioner for lands has obtained the order in council for the lots he applied for, and when he has received his location ticket and sets out to settle on them, either from the negligence of those who have been employed in making the survey; or perhaps from some other cause, on his arrival at the spot he finds the pickets marking the boundary of his lot have been removed, and he has to spend much time and labour before he can ascertain the place where it is, or the exact extent of it. In the military settlements, the new comers are not subjected to this inconvenience. The superintendant is on the settlement, and the applicant has only to go to him, and he will accompany him, both pointing out his

lot and correctly designating its boundaries. But in the application to be previously, made there is a slight difference from the plan above detailed. On an officer so situated, arriving in Canada, with the view of settling on his lands ; after he has selected the settlement he wishes to go to, he applies to the Governor in Chief by a memorial. This application is accompanied with certificates of his service, and the other necessary documents, designating his rank &c. &c. On the Governor giving a decision on this petition, it is then taken to the Quarter Master General, who writes an order on it, addressed to the superintendant of the settlement in question, stating the rank of the applicant and the number of acres he is intitled to. With this order the petitioner then goes to the settlement, when the Superintendant lays out his location for him in terms of the order, and he proceeds with his improvements accordingly. As far as regard the subsequent proceedings for obtaining the Patent deeds &c. the mi-

litary settler is on the same footing with others.

ANOTHER method by which lands may be obtained in the Canadas is the following; and which will be found to answer the purpose of many who are possessed of a small capital. In a former part of this work, it has been stated that soon after this country became a portion of the British Empire, the Government desirous to reward its adherents, had given to several of them extensive tracts of waste lands as a recompence for their services. These, extensive grants as well as others which were subsequently procured were given to the grantees without imposing upon them any conditions, such as at present exist. They were not liable for non-fulfillment of the settlement duties, and many of them never paid any farther attention to the lands they had procured in this way. In consequence of this there are at this day, large tracts of excellent lands lying in a state of nature, in many parts of the Pro-

vince, which had been originally given out in this manner, being too extensive for the original grantees to bring under cultivation themselves ; and they never have made any exertions to procure farmers to settle upon them. The titles of these grantees or their representatives are as valid as any description of tenure which can be obtained ; and to the small capitalist it will be found an object well deserving his attention to make a purchase of some of them. Such lands are frequently valuable from their quality and situation ; and they can readily be procured at prices varying from 6d. to 5s. per acre. This plan will enable the settler to make a deliberate selection of a lot adapted to his future views ; he will not be subjected to these conditions and obligations which have been more recently imposed ; and in the event of the purchase he thus makes, not being found to answer his expectations ; on a trial of it, by being thus furnished at once with a valid and transferrable title he may dispose of it and buy another more suitable

for his purposes. But, on the other hand, it is obvious this plan cannot be taken advantage of by the poorer settler : he perhaps hardly possesses the means of living, while cultivating for his first crop ; far less can he advance money for a purchase of lands ; to him there for there only remains the other alternative namely, to procure his lands in the way already described, either directly from government, or from some of the Seigniors as is most agreeable to him.

THE mode to be pursued for obtaining the patent grant or deed of the lands, is nearly similar in both Provinces and is as follows. How soon the settler has performed the conditions specified in the location ticket, he applies to the nearest magistrate, and if no magistrate reside near him, to two of his neighbours who proceed to inspect his improvements ; and certify upon oath if they are performed as required by law, before a magistrate. Their affidavit, or the certificate of the magistrate, (provided he has inspected and re-

ported the state of the lands,) is then attached to the Location Ticket, and presented to the Surveyor General, whose duty it is to note upon the ticket, if any alteration which could affect the interest or right of the settler has taken place, since he went on his lands. Provided nothing of the kind has occurred, the Surveyor General gives an authority to the Receiver General, to whom must be paid the proportion of the crown fees, and also the fees, for surveying the whole grant.

HAVING received a receipt for these, the settler next goes to the Land granting Officers, to whom he pays the fees allowed them for making out the patent grant, and on presenting their receipt, along with that of the Receiver General, his location ticket and certificate of having performed the settlement duty, to the Attorney General, he receives from him, a fiat for making out the patent grant, addressed to the Surveyor General. This grant is then made out, containing an accurate description of the

extent, and boundaries and also a specification of the clergy reserves in respect to the land granted ; and is in this state sent to the Secretary of the province to be engrossed.

It is then transmitted to the Attorney General, along with the Surveyor General's description, and after being examined by the former, and his name signed on the margin of it ; it is returned to the Provincial Secretary, who affixes the great Seal of the Province to it, and sends it to the Governor's private Secretary for his Excellency's Signature. After this it is sent to the Provincial Secretary, who forwards it to the Auditor General of Land Patents, when it is docketed, and returned to the Provincial Secretary, where it is registered and deposited in his Office, until called for by the Grantee or his Agent.

CHAPTER VII.

THE METHOD OF CLEARING LANDS.

HAVING in the preceding pages, pointed out the regular method to be pursued by such as are desirous of procuring lands, a few observations respecting the best plan of proceeding to render these lands productive, may not be superfluous in this place. It deserves however, to be remarked, that the operation of clearing lands, is liable to be affected by such an infinite variety of concurrent circumstances, arising from the quality of the timber—the local position of the land—the present views or ulterior designs of the settler, &c. &c. that no explicit rule can be laid down applicable to all cases.—All therefore that can be done, is to give a brief account of the methods most generally in use; leaving it to the judgment of the settler to select that one which

may be best adapted to his own particular situation.

THE plan most frequently pursued is, for the settler to go over his ground and cut up all the under-wood which is termed *Brush*, as close to the roots as possible ; having done this, he next cuts down the larger trees at a convenient height from the ground, taking care to make them fall as much in one direction as he can. These last are then cut up in pieces of eight or ten feet long, so as to enable them to be drawn together in one place. In this state, mixed with the branches and brush wood, as they have fallen, they are set on fire, and as much consumed as possible. After the fire of the first burning is extinguished, the settler, by the help of his oxen, draws the larger logs, which, are left unconsumed, into heaps, when they are again set on fire which commonly consumes them entirely.

PROVIDED the quality of the timber, and the circumstances of the farmer be such as to induce him to manufacture Potash, he

goes on his lands after this second burning, and collects the ashes for that purpose; but if on the contrary, his object be to procure a crop, his lands are in this state ready for sowing, and he may throw in the seed and cover it slightly with what is termed a brush harrow. No ploughing is required on land in this state, and it could hardly be effected if requisite, owing to the numerous impediments from the fibrous roots, and the stumps which are left standing. The alkaline property of the ashes combining with, and acting on the rich vegetable mould, always ensures a superabundant crop from the simple process above detailed.

THE second method of clearing varies in some respects from the above plan. Here the settler cuts down the brush wood, and after collecting it along with the smaller timber burns it. The larger trees are left standing and are what termed *girdled*; that is, an incision or notch is made round each, at the height of three or four feet from the

ground, and so deep as to penetrate quite through the bark. By this means the circulation of the sap in the tree is impeded, and it dies in the course of a year or two, when it falls and is burned in the way above noticed. Much has been said as to the comparative advantages of these two methods of clearing; and like every thing of the kind, the preference given to either of them must be influenced by the state of existing circumstances. As to the matter of expense, the first method costs nearly double that of the last, the cutting up of the underbrush being but a trifling undertaking, and when the larger trees are dried and fall of themselves, they are burned at a far less expense than when in a green state.

THE advocates for the first method, have advanced reasons in favour of it no less substantial than these. It is in the first place the most elegant method of clearing. In the case of girdling the shade of the large trees which are left standing, impedes

the rays of the Sun and prevents the crop coming to such perfection, as it does if they were cut down : Hence if a settler only clears ten acres by the first plan, he will have as much crop from them, and will be more sure of reaping his reward, than he would from double the extent of ground, cleared in the manner last described. The experience of later years seems also to have sanctioned the first, in preference to the last plan, for few instances of girdling are now to be seen, unless in places where there are few large trees, or where the settler is not anxious for, or dependant on a large return the first year.

THE expense of clearing lands by either of the above processes, differs in different parts of the country, and is generally estimated by the value of labour in other operations.

THE Stumps, which are necessarily left in the ground after clearing in both the above methods, are allowed to remain there until they rot out in the course of time ;

The period necessary for this will vary according to the description of the land and the species of timber; in general the stumps of the softer kinds decay in three or four years, while others continue from ten to fifteen; but as they are gradually diminishing in number every succeeding year, the facility for using the plough becomes proportionally greater.

It will occur to any man conversant with the best and readiest methods of saving labour that a more expeditious plan than either of these might be adopted; by cutting down all the trees and underwood together, and after they have been left a sufficient time to dry, by setting fire to them at once. By this method the labour and time required for collecting the brush wood into heaps might be saved, and as a great portion of the larger timber would be thus consumed, the labour of cutting up the logs, and collecting them into heaps (termed logging) would be very much abridged. There are however serious objec-

tions against this plan. Those experienced in the business have discovered that the excessive heat which is by this means applied to the whole surface destroys the vegetative power of the soil; and if cleared in this manner it will not bear a crop for many years after. This is no doubt a valid objection in many descriptions of soil. If it contains a large portion of iron, the calcination it would undergo in this process will no doubt injure its fertility. If the soil be of a lime stone or calcareous nature the complete destruction of the animal and vegetable matter, by this plan, will leave no substance for the lime, thus formed, to act upon. In Argillaceous or clay soils, the surface may become so indurated by the heat as to be unfit to produce a crop. Or lastly the reduction of all the vegetable substances in the soil into ashes along with that produced by the trees may render the soil too alkaline in its nature. In either of these cases the views of the farmer who expects a crop will be frustrated; and it is

of but little consequence to enquire how his defeat occurs; since ample experience confirms the fact that lands cleared in this manner are unfit to bear a crop for years after.

A SLIGHT consideration of the above methods of clearing lands exonerates, the Canada settler from a reproach to which he has been long undeservedly subjected, by strangers who have visited the country. I mean the want of taste, in not leaving groves and patches of wood in different places, to beautify his farm. It is obvious from what is above said, that were he inclined to make such reservations; it would be hardly possible to do so but at an enormous expense, as the ravages of the fire during the first burning could seldom be prevented from extending to such a favorite spot. Its limits can seldom be correctly circumscribed, far less is it possible to preserve unscathed, a favorite bush or tree, in the middle of the space over which it has to pass. Another objection to the reservation

of trees, for the sake of embellishment in Canada, is the circumstance of their not continuing. Trees which grow in large thick forests, seldom extend their roots and fibres so far in the ground, as those which are planted detached or in small clustres. Hence when a farmer in Canada leaves a solitary tree, or even a clump of trees for an ornament to his farm, they are generally blown down by the first high wind, and are on this account not worth the trouble of preserving. It has been asserted that the farmer in this country, ought not to reserve clustres of trees in the midst of his cleared ground, even if such a thing were practicable ; because such a reservation affords shelter to small birds and other vermine which eat up his crop. It must be confessed that this objection possesses considerable force in some cases, but it only bears in particular situations. If the farm be situated in the midst of a cleared country with no timber in its vicinity, the reserving of patches of timber would no doubt at

tract birds ; but when it is surrounded by extensive woods, as is generally the case in Canada, such a reservation can hardly be supposed to encrease their number. And it requires no apology for leaving undone that which it is impracticable to accomplish.

APPENDIX.

THE following Official Papers relative to the granting of the waste lands of the Crown in Upper Canada, contain the latest regulations by Government on that subject

N^o. 1.

*Executive Council Office,
YORK, 14th December, 1819.*

WHEREAS it is desirable to alleviate the situation of the poorer classes of settlers, by an exemption from any charge on the Patent deed, and also to remove all obstacles from the more free accommodation of others with larger grants, than have been usually made: His Excellency the Lieutenant Governor in Council, has been pleased to order that the first mentioned class of settlers may receive a gratuitous Grant of fifty acres, under exclusion, be it understood, from any further Grant from the Crown, but with liberty to lease the Reserves.

To meet the above gratuity, and increased burthens attending the purchase and distribution of Lands &c.

It is ordered that the scale of demands on the Grant of one hundred acres and upwards shall be regulated according to the annexed table, to take effect from the first of January, 1820. It is further ordered that the restriction from the sale for three years be abolished, and that deeds may issue on proper certificates of the performance of settling duties being produced. The grantees will be required to clear one half of the road in front of each lot, and the depth of two and one half chains from the road the whole length of every lot, and erect a dwelling house.

TABLE OF FEES.

UPON all grants of Land issuing under orders in Council, bearing date subsequent to the 1st January 1820, the following sums will be paid by the patentee.

On Grants of 50 Acres

On do	100 do	12	£
On do	200 do	30	do
On do	300 do	60	do
On do	400 do	75	do
On do	500 do	125	do
On do	600 do	150	do
On do	700 do	175	do
On do	800 do	200	do
On do	900 do	225	do
On do	1000 do	250	do
On do	1100 do	275	do
On do	1200 do	300	do

In three equal Instalments. The first on receipt of the Location Ticket, the second on certificate filed of settlement, the third on receipt of the fiat for the patent.

No petition can be entertained unless accompanied by a written character or a satisfactory reason shewn for such not being produced.

(Signed)

JOHN SMALL, *Clerk*
of the Executive Council.

N^o. 2.

Government House.
6th March, 1820.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR is pleased to direct that no Location requiring settlement duty shall be confirmed by Patent, without a certificate from the Land Board of the district in which such location may be situate that the settlement duty required by the order in council has *bona fide* been performed, within the time specified by the Location Ticket.

JOHN SMALL, *Clerk of the*
Executive Council.

No. 3.

Surveyor Generals Office,
Yonx, 2d August, 1820.

THE Tract of land in the long woods, on the river Thames, in the District of London, having lately been surveyed and returned to this office.

Notice is hereby given that a Location of 100 acres, on the north side of the road, laid out through that tract may be made, at the Council Chamber on Saturday the 2d day of September next at noon, by any person having an order in Council for land, who will perform the ordinary settlement duty, and make and maintain the whole road in front of his respective Lot.

Militia Grantees will be exempt from all fees, and others will pay only the patent fee of £3 5 2 Province Currency.

Should the number of applicants exceed the number of Lots. They will draw for priority of choice.

(Signed)

THOMAS RIDOUT,

Surveyor General.

N^o. 4.

Copy of a Letter to D. M'Gregor Rogers, Esq.
Chairman of the Land Board, Newcastle District.

Lieutenant Governors Office, }

April 26th, 1819. }

SIR,

I AM directed by HIS EXCELLENCY the
LIEUTENANT GOVERNOR, to reply to your letter of
the 15th instant, in explanation of those particular
points, on which you, in the name of the Land Board
of the New-Castle District, sollicite more precise in-
formation than that contained in the instructions trans-
mitted to you by the Clerk of the Executive Council.

In the first place, with regard to such other persons
besides Emigrants, as the Board may be authorised to
grant locations to, I am to explain to you, that by such
"other persons" are to be understood such able settlers
as have resided in the district before the late war, and
produce certificates of having done their duty in its
defence.

Secondly.—With regard to military claimants. No
military claimant as such is referred to the Board :
being to receive their land gratuitously in the military
settlement, any dispensation of that sort must be ap-
proved on application to the Lieut. Governor in Coun-
cil.

Thirdly.—The sons and daughters of U. C. Loyal-
ists, being entitled to gratuitous grants of 200 Acres,
must apply to the Lieut. Governor in Council.

Fourthly.—Persons arriving from the United States, and bringing due certificates of their being British born subjects, are admissible by the Board.

Fifthly.—A form of location Ticket will be transmitted to the Chairman of the Board, in which will be specified the conditions of settlement.

Sixthly.—His Excellency is of opinion that the presence of the Chairman is not necessary at every meeting of the Board; any three of the members constitute a Board, and may proceed to act accordingly.

Seventhly.—The settler should be thoroughly instructed, that, in the event of his finding any improvement on the Lot to which he may be located, he is immediately to return with his Ticket of Location to the Board, and report the circumstance for the information of government. Should he fail in this particular, he can expect no confirmation of the grant to him. In this case the Board will appoint him another location.

Eighthly.—With regard to the difficulty that may be experienced by the settler in finding his particular lot: His Excellency bids me observe, that, in order to remunerate the person who might be employed to point it out to him, the settler must be burthened with another fee, and that in case of persons located by the Surveyor-General's Office no such precaution is practised, his Excellency does not perceive the necessity of the regulation.

I am &c. &c.

(Signed)

GEO. HILLER, Private Sec'y.

No. 5.

FORM OF A LOCATION TICKET FROM THE SEAT
OF GOVERNMENT CONFORMABLE TO AN ORDER
IN COUNCIL OF THE 18TH JUNE, 1817.

No. Ticket of Location *not transferable*, pur-
suant to an order in Council of the 18th June, 1817
and order of his

Bearing date

I do hereby assign to
an Emigrant settler from the Lot
number in the Concession, of
the Township of in the district
containing acres, which he is
authorised to occupy and improve; and upon proof
produced to the honourable the Executive Council,
of his actual settlement and residence on the said lot,
at the end of two years he shall be entitled to receive
a grant of the said acres on the usual terms of
payment of fees, under the regulations of the sixth of
July, one thousand eight hundred and four.

Given at the Surveyor General's Office at York,
Upper Canada, this day of
One Thousand Eight Hundred and

M

No. 6.

FORM OF A LOCATION TICKET FROM A DISTRICT
LAND-BOARD IN UPPER CANADA.

Land-Board, *District.*

A. B. born at in of the age
of years, having arrived in this Province
and petitioned to become a Settlers therein,
has been examined by us, and we being satisfied with
his character, and of the propriety of admitting him to
become a Settler, and having administered to him the
Oath of Allegiance, do assign to him One Hundred
Acres of Land, being the half of Lot No.
 in the Concession of the
in for which, upon due proof of having clear-
ed and cropped five Acres, and cleared half the Road
in front of his land, of having erected and inhabited a
house thereon for one year, he will be entitled to re-
ceive a Grant to him and his Heirs, he paying the Pa-
tent Fee of £5..14..1. Sterling.

N. B.—If the Settlement duty is not performed
within two years, this Location to be of no value, but
assigned to another Settler.

N^o. 7.

FORM OF A PETITION FOR LANDS.

To His Excellency, (*Here introduce the titles of the Governor, Lieutenant Governor, or person Administering the Government at the time, as the case may be.*)

THE Petition of _____ of the Township of _____ Humbly Sheweth,

THAT your Petitioner is a native of the Parish of _____ in the County of _____ in _____ and has lately arrived in this Province from _____ with his family, consisting of a wife and children.

That your Petitioner has the means to improve Land, and is desirous of becoming a Settler on the waste Lands of the Crown in this Province.

Wherefore your Petitioner humbly prays that your Excellency will be pleased to grant him lot No. _____ in the _____ Commission of the Township of _____ District of _____

And your Petitioner shall ever pray
York

and all others of a similar nature, are not transferable by sale, donation, or otherwise, on any pretence whatever except by an act under the signature of the Executive Council which is to be engorsed upon this certificate.

Given at the Surveyor General's office
this day of one thousand eight hundred
and
(Signed) JOSEPH BOUCHETTE.
Surveyor General.

N^o. 9.

Extract of a report of the Committee of the whole Council dated the 14th August, 1818.

Approved by HIS GRACE THE GOVERNOR IN CHIEF
in Council, 29th August, 1818.

On a petition for exemption from personal residence on Lands recommended to be granted to the petitioner.

" THE Committee do humbly report, that the condition of the Location Ticket, being that he or his family do remain thereon for the period of three years, and that four acres thereof at least be cleared and cultivated during that period, and a dwelling house erected, they are humbly of opinion that the Petitioner is not bound to reside personally upon the land in question, and that the performance of the conditions by any person he may place upon it will be sufficient."

(Certified)

W. D. RYLAND.

Asst. Clk. Execut. Council.

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